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SUBJECT: ICTY: KRAJISNIK TRIAL OPENS SMOOTHLY

11. (SBU) Summary. The trial of Momcilo Krajisnik before the International Criminal Tribunal for the former Yugoslavia (ICTY) opened smoothly for the prosecution on Feb. 3. Krajisnik, who is being tried on eight counts including charges of genocide and crimes against humanity, held many prominent positions in the leadership of the Republika Srpska (RS) during the war, including the presidency, and was closely associated with Radovan Karadzic and Biljana Plavsic. In its opening statement, the prosecution argued that Krajisnik had control and authority over Bosnian Serb military forces and political organs that committed a variety of criminal acts, from murder to forced relocation of Bosnian Muslim and Bosnian Croat populations. Like most high-level ICTY indictees, Krajisnik is not accused of personally carrying out these criminal activities. Rather, the prosecution argued that Krajisnik was a member of a joint criminal enterprise whose objective was to exterminate large portions of the Bosnian Muslim and Bosnian Croat populations in Bosnia and Herzegovina (BiH). The Chamber has indicated that the trial could take over two years to complete. End Summary.

Second only to Karadzic in Power and Influence

12. (SBU) In a well researched and detailed three-hour opening statement, Senior Trial Attorney (STA) Mark Harmon (American) argued that Krajisnik was one of the most powerful and influential leaders of the RS, second only to notorious war criminal Radovan Karadzic. He argued that Karadzic was the republic's "front-man" while Krajisnik operated levers of power behind the scenes. Harmon painted Krajisnik as a hard-line nationalist who planned and ordered the mass killings of Bosnian Muslims and Croats during attacks on towns during the 1991-1992 portion of the war in BiH, with the end-goal of exterminating these populations from large portions of the region. Krajisnik's indictment contains eight counts, including genocide, crimes against humanity, and violations of the laws of war. He is accused of committing these crimes not personally, but as a member of a joint criminal enterprise (NB: he is charged under Articles 7(1) (individual responsibility) and 7(3) (superior responsibility) of the ICTY Statute). Members of this enterprise also include Plavsic and Karadzic. Krajisnik was originally indicted with former Bosnian Serb president Plavsic, but Plavsic pled guilty in October 2002 to the crime against humanity of persecutions. In the course of her plea agreement's "agreed facts", Krajisnik, Milosevic and Karadzic are fingered by Plavsic as the key perpetrators of the plan to eliminate Muslims and Croats from Serb-dominated areas of Bosnia.

13. (SBU) One key piece of evidence that the prosecution plans to introduce is a document distributed at a 1992 Bosnian Serb Assembly session that outlines six proposed strategic objectives of the RS. The objectives include establishing borders that separate the Serbian people from other ethnic communities in Bosnia, and dividing the ethnically mixed city of Sarajevo into Serbian and Muslim portions. The prosecution stated that Karadzic announced these objectives to the Bosnian Serb Assembly, and that they were adopted as a formal Decision and signed by Krajisnik in his capacity as the President of the Bosnian Serb Assembly.

14. (SBU) At the start of the proceedings, the judges of Trial Chamber I (Judge Orie presiding) indicated that the case could take well over two years. They allotted the prosecution 450 hours to present its case-in-chief, not including the time the defense takes for cross examination. Because of the length of the proceedings, the defense opted to defer its opening statement until later in the trial. Krajisnik, however, requested to make a statement to the Chamber. In contrast to the behavior of other senior indictees such as Milosevic or Seselj, Krajisnik made a short and reserved speech, claiming his innocence and expressing his belief that the proceedings would result in the emergence of the truth. Krajisnik, arrested in a late-night SFOR raid at his home in Bosnia in April 2000, has been in the ICTY detention facility in Scheveningen awaiting

trial for almost four years.

15. (SBU) Comment: The trial of Momcilo Krajisnik is among the three or four most important cases to be heard by the ICTY, in a category that is just below Milosevic, Karadzic and Mladic. In many respects, the trial will delve deeper than the Milosevic trial can into the criminal enterprise of RS leaders, focusing not only on the specific crimes of the Bosnian war but also the intentions and responsibility of the senior-most Bosnian Serb leadership. It is also likely to put flesh on Biljana Plavsic's skeletal, twenty-two paragraph "factual basis" for her guilty plea. In the hands of a strong American-led prosecution team and an experienced presiding judge (who recently issued a judgment in the "Sarajevo Siege" case against Stanislav Galic), there are high expectations that the trial might not only prove Krajisnik's guilt but also go a long way towards establishing accountability and creating the kind of historical record of the Balkans conflict that the international community has expected of the ICTY. End comment.

SOBEL